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November 13, 2007

**VIA U.S. MAIL**

Judge Charles R. Breyer  
U.S.D.C. – Northern District  
450 Golden Gate Avenue  
Courtroom 8, 19<sup>th</sup> Floor  
San Francisco, CA 94102

Re: *Cook v. City and County of San Francisco, et al.*  
U.S.D.C., Case No: C 07 2569 CRB

**FILED**

NOV 14 2007

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Dear Judge Breyer:

Regrettably I was unable to appear at the recent CMC on October 26, 2007 because I was ordered to appear at a settlement conference in a case in Marin County Superior Court that morning. I was informed by my associate that you invited the Defendants to file a Rule 56 motion by January 18, 2008, and limited discovery to the equal protection claim.

I was lead to believe that the Court was particularly concerned with the allegation made by the plaintiff that he was arrested after the District Attorney's Office declined to prosecute the case. I was recently informed by opposing counsel, Margaret Baumgartner, that she would only be relying on the declaration of defendant Captain Martha Ashe in her Rule 56 motion and that Capt. Ashe was unavailable until January 2008 for deposition.

This raises a variety of problems: (1) we believe that Capt. Ashe was not directly (and certainly not exclusively) involved with the arrest, nor was she the only defendant communicating with the District Attorney's Office before the arrest; and, (2) we believe it will be necessary to depose the other two defendants (Flores and Sloan) as well as ADA Aguilar-Tarchi in order to prove our equal protection claim.


Ms. Baumgartner also insists on going forward with the deposition of the Plaintiff next week while refusing to produce defendants Flores and Sloan, or ADA Aguilar-Tarchi, for deposition.

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Please let me know how the Court would like to have this matter resolved. I am prepared to file a discovery motion next week, if necessary. I am also available to appear this Friday, November 16<sup>th</sup> for a further Case Management Conference, or another time that is convenient for the Court. I object to producing the Plaintiff for deposition until the above issues can be resolved by the Court.

Sincerely,

SCOTT LAW FIRM



John Houston Scott

JHS/tsp  
cc: Margaret Baumgartner  
Clifford Cook